

The Honorable John C. Coughenour
 The Honorable Marsha J. Pechman
 The Honorable James L. Robart

UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 AT SEATTLE

LUIS TORRES, individually and on behalf of all)
 others similarly situated,)

Plaintiff,)

v.)

MICROSOFT CORPORATION, a Washington)
 corporation,)

Defendant.)

No. C07-1121 JCC

MICROSOFT'S RESPONSE TO
 MOTION TO CONSOLIDATE,
 APPOINT INTERIM CLASS
 COUNSEL, APPROVE
 PROPOSED LEADERSHIP
 STRUCTURE, AND SCHEDULE
 FILING OF PLAINTIFFS'
 CONSOLIDATED COMPLAINT

Noted for Hearing:
 September 7, 2007

STEVE CARLIE, individually and on behalf of)
 all others similarly situated,)

Plaintiff,)

v.)

MICROSOFT CORPORATION, a Washington)
 corporation,)

Defendant.)

No. C07-1132 MJP

CHRISTINE MOSKOWITZ and DAVID
WOOD, individually and on behalf of all others
similarly situated,

Plaintiff,

v.

MICROSOFT CORPORATION, a Washington
corporation,

Defendant.

No. C07-1270 JCC

HEIDI LING, as parent and natural guardian of
ROBERT LING, III, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

MICROSOFT CORPORATION, a Washington
corporation,

Defendant.

No. C07-1271 JLR

JUSTIN HANSON, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

MICROSOFT CORPORATION, a Washington
corporation,

Defendant.

No. C07-1295 JLR

Defendant Microsoft Corporation (“Microsoft”) submits the following Response to
Plaintiffs’ Joint Motion to Consolidate Related Cases Pursuant to Fed. R. Civ. P. 42(a);
Appoint Interim Class Counsel Pursuant to Fed. R. Civ. P. 23(g)(2); Approve Plaintiffs’
Proposed Leadership Structure; and Schedule the Filing of Plaintiffs’ Consolidated Complaint
(the “Motion to Consolidate” or “Motion”).

I. MICROSOFT SUPPORTS CONSOLIDATION.

Microsoft supports consolidation of the five actions pending in this Court in the interests of efficiency and conservation. If additional actions are filed raising substantially similar claims, Microsoft would support their consolidation as well.

II. MICROSOFT REQUESTS THE APPOINTMENT OF A SINGLE FIRM TO SPEAK FOR PLAINTIFFS IN PRETRIAL MATTERS.

Plaintiffs attached as Exhibit A to their Motion to Consolidate a “Proposed Leadership Structure” comprising two “Co-Lead Counsel” firms, one “Liaison Counsel” firm, and four “Executive Committee Firms” – in short, some role for each of the seven law firms that brought the five cases.¹ Microsoft has no wish to second-guess the manner in which Plaintiffs’ counsel organize themselves to litigate this matter. It is concerned, however, that the “Proposed Leadership Structure” will lead to inefficiency and duplication. In particular, with seven firms proposed for “Leadership” roles, Microsoft faces the possibility of having to deal with multiple firms, on an ongoing basis, during what is likely to be a vigorously litigated pretrial phase. Plaintiffs apparently envision that all three of the Co-Lead and Liaison Counsel firms would regularly deal with Microsoft’s attorneys. *See* Motion at 9.

Microsoft believes that having three firms speaking for Plaintiffs on an ongoing basis would be a prescription for unnecessary expense and confusion on both sides. Microsoft would incur increased costs in coordinating with the various Plaintiffs’ firms and attempting to assure itself that all Plaintiffs were in agreement when any one firm made a representation or agreement. To avoid the potential expense and confusion that will flow from having multiple firms regularly speak for Plaintiffs, Microsoft therefore respectfully requests that the Court designate by order that Liaison Counsel will be expected to speak for all Plaintiffs in pretrial matters. Based on conversations with the proposed Liaison Counsel, Microsoft understands that Plaintiffs have no objection to this request.

¹ Microsoft takes no position on Plaintiffs’ request that the attorneys bringing the five actions be appointed interim counsel under Fed. R. Civ. P. 23(g)(2)(A). *See* Motion at 6-8.

III. MICROSOFT SUPPORTS DEFERRAL OF A RESPONSE TO PLAINTIFFS' COMPLAINTS UNTIL THIRTY DAYS AFTER THE FILING OF A CONSOLIDATED COMPLAINT.

As the pending Motion makes clear, five related complaints are pending against Microsoft in this Court, with response deadlines rapidly approaching. Given that the complaints raise substantially similar claims, Microsoft agrees that a single consolidated complaint would be sensible and efficient. Microsoft therefore respectfully requests that its obligation to respond to Plaintiffs' complaints be deferred until thirty days after Plaintiffs file and serve a consolidated complaint superseding the five currently before the Court, after which Microsoft will serve a single response to the consolidated complaint. Based on conversations with the proposed Liaison Counsel, Microsoft understands that Plaintiffs have no objection to this request.

Along with this brief, Microsoft submits a Proposed Order incorporating the relief requested by Plaintiffs, adding the two suggestions set forth above, and making minor stylistic and changes. Exhibit A to this brief compares Microsoft's proposed Order to plaintiffs'.

DATED this 31st day of August, 2007.

Davis Wright Tremaine LLP
Attorneys for Defendant
Microsoft Corporation

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CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2007, I presented Microsoft's Response to Motion to Consolidate, Appoint Interim Class Counsel, Approve Proposed Leadership Structure, and Schedule Filing of Plaintiffs' Consolidated Complaint to the Clerk of the Court for filing and uploading to the CM/ECF system which will send notification of such filing to the following persons:

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DATED this 31st day of August, 2007.

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